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## **Kings County Pesticide Regulatory Program 2006/2007 Performance Evaluation Report**

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March 26, 2008



## **Performance Evaluation of the Kings County Agricultural Commissioner Pesticide Use Enforcement Program**

This report provides a performance evaluation of Kings County Agricultural Commissioner's (CAC's) Pesticide Use Enforcement (PUE) program for the fiscal year 2006-2007. The assessment evaluates the performance of goals identified in the CAC's enforcement work plan, as well as the program's adherence to Department of Pesticide Regulation (DPR) standard as described in the Pesticide Use Enforcement Standards Compendium.

### **I. Summary Report of Core Program Elements**

Throughout the fiscal year, the core areas of Kings County's pesticide enforcement program were evaluated: restricted materials permitting, compliance monitoring, and enforcement response. The report findings are based on field observations, oversight inspections, review of county records, and an evaluation of pesticide use and illness investigations for the fiscal year 2006/2007.

#### **A) Restricted Materials Permitting:**

The restricted materials permitting program element was found to meet DPR standards and work plan goals.

#### **B) Compliance Monitoring:**

The compliance monitoring program element was found to meet DPR standards and work plan goals.

#### **C) Enforcement Response:**

The enforcement response program element was found to meet DPR standards and work plan goals.

### **Summary Statement:**

The Kings County Agricultural Commissioner's Pesticide Use Program is currently effective, and no deficiencies have been identified.

### **II. Assessment of Core Program Effectiveness and Work Plan Goals**

#### **A) Restricted Materials Permitting:**

##### **1) Permit Issuance**

All staff of the Kings County Agricultural Commissioner's office who issue restricted materials permits are experienced biologists, and are knowledgeable of pesticide laws and regulations. All Kings County pesticide use enforcement staff possess Pesticide Regulation and Environmental Monitoring licenses. Staff experience in pesticide enforcement activities range from two to twelve years. Even though all pesticide enforcement staff is qualified to issue restricted materials permits, the most experienced

biologists review the permits before they are issued to assure they are correct and complete.

Biologists interview the restricted materials permit applicant to determine if they have met the requirements to hold a restricted materials permit and are the operators of the property. If they are not operators of the property, a letter of authorization is required to be in the possession of the applicant prior to the issuance of the permit. If the applicant possesses a Private Applicator Certificate or a Qualified Applicator License, the numbers are verified and listed on the restricted materials permit.

Kings County uses the Restricted Materials Management System (RMMS) to issue permits. The program checks the permit being issued to verify no fields have been left incomplete. Geographic Information System (GIS) maps, and grower's maps are used to help evaluate the surrounding environment and identify sensitive sites, such as, schools, residential areas, waterway, labor camps, and parks. A countywide sensitive area map was completed for the 2007 permitting season to allow for better evaluation of potential hazards. Restricted materials permits are amended in person using DPR's supplemental form, or by fax, if the authorized representative signs and returns the form to the Kings CAC. When the permit is amended, the change is made on a supplemental page and is attached to the original permit, as well as entered into the RMMS Program.

The Kings County Agricultural Commissioner's office only issues restricted materials permits for a one-year period. Approximately 800 restricted materials permits and 100 Operator I.D.s were issued in 2007. Annual training on the policies and procedures used to issue permits, and training for properly identifying sensitive sites are given by the PUE Deputy.

The DPR evaluation determined that permits are:

- Issued only to qualified applicants
- Signed by the operator of the property or authorized persons
- Issued for a one-year time period
- Permit amendments follow approved procedures

## **2) Site Evaluation**

Prior to approving the use of a restricted material on a permit, the Kings CAC checks to see if the pesticide is registered for use on that crop using DPR's pesticide label database. The biologist issuing the restricted materials permit also reviews any permit condition that may apply to the pesticides on the permit, and conditions it accordingly. GIS maps are used to identify sensitive sites. These maps are issued to growers when they apply for their pesticide permits. The CAC staff evaluates the permits and determines if practical mitigation measures could be implemented or the use of feasible alternatives are required.

The Kings CAC maintains strict permit conditions for the use of metam sodium. The permit conditions vary for the use of metam sodium applied through sprinklers, drip, or shank methods. The buffer zones and water sealing methods are different for the various

application methods and once a certain method is denied, a second method may be allowed in making the application. All fumigant applications near sensitive sites are inspected, assuring the buffer zones are both accurate and adequate. Pre-application site inspections are conducted above 5% for fumigant and defoliant applications around sensitive sites.

The permits:

- Contained the necessary information
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses
- Identified mitigation measures and included conditions that addressed known hazards

Notices of intent (NOI) are received by fax, mail, drop box located in the main office, walk-ins, and through the county's web site utilizing the RMMS web application. All NOIs are reviewed by licensed pesticide enforcement staff who check the NOIs against the permit in the computer. One biologist is scheduled to remain in the office each day to review and assign the day's NOIs to the appropriate county area and issue permits. Each day, a biologist is assigned to one of the four county areas. All biologists in the field have mobile radios, and are often contacted to check sites in sensitive areas when NOIs are submitted. Sensitive sites include areas such as; parks, residential areas, schools, hospitals, and labor camps. The biologists have the authority to accept or deny an NOI. The operator of the property and the pest control business are contacted when the NOI is denied. More than 5500 NOIs, that represent 7200 sites in the county, were reviewed and processed in 2006/2007.

Notices of intent listing defoliants, that are restricted materials, to be applied near sensitive sites are evaluated and denied if the site is too close to residential areas. The application may be denied, conditioned, or be made using non-restricted pesticides. Phenoxy herbicide applications are also evaluated when a notice of intent is submitted and denied if near sensitive crops. Cutoff dates have been implemented that have prevented crop damage and losses due to several of the phenoxy herbicides that include 2,4-D, MCPA, and dicamba. When a notice of intent is denied, the property operator and pest control business are notified, a denial form is completed, and filed in the restricted materials permit file. Kings County has also implemented permit conditions for non-restricted herbicides such as glyphosate, oxyfluorfen, and several acetamiprid products because of damage to sensitive crops.

The Kings County Agricultural Commissioner's staff reviews all notices of intent in a timely manner, and adequately monitors agricultural and non-agricultural permits utilizing pre-application site evaluations and use monitoring inspections.

## **B) Compliance Monitoring:**

### **1) Inspections**

All of Kings County's pesticide use enforcement staff conducting inspections possess licenses in pesticide regulation and environmental monitoring. The experience of

biologists conducting inspections in pesticide enforcement activities ranges from 2-12 years.

Staff from the Kings County Agricultural Commissioner's office have attended training sessions in 2006/2007 that included closed systems, pesticide use monitoring inspections, structural, hearing officer training and the Cal EPA Enforcement Symposium. Kings County staff also participated in a pesticide incident exercise held by the Hanford Community Medical Center. The Kings County pesticide enforcement staff has weekly meetings to discuss pesticide issues, safety, and to review pesticide use enforcement notes written by the Deputy Commissioner.

Biologists conducting pesticide use inspections issue a violation notice for any criteria item marked "No" on the inspection form. When worker safety non-compliances are found during an inspection, the biologist conducts a headquarters/employee safety inspection, and any required follow-up inspections. The biologist also reviews the compliance history for the firm/person inspected, and meets with the Deputy Commissioner before issuing a violation notice. The Deputy Commissioner is responsible for preparing the case file and notice of proposed action.

Inspections performed by the CAC were found to:

- Adequately address label, law and regulatory requirements
- Include interviews of employers and employees
- Adequately document violations
- Include appropriate follow-up inspections and procedures

## **2) Investigations**

All of the Kings County Agricultural Commissioner's staff who conduct pesticide enforcement investigations are designated as Agricultural Biologist III. Two biologists, with more experience, have been assigned to investigate all of the pesticide related illnesses while the remaining staff investigates all other complaints. All incidents or complaints associated to pesticides are investigated, and written reports are made on each case.

The investigations adequately provide the information necessary to successfully proceed with legal action when warranted. A complaint log is maintained and made available to the liaison for review.

## **C) Enforcement Response:**

When non-compliances are found during inspections and investigations, Kings County Pesticide Enforcement staff issue a violation notice, and clerical staff data enters the information into a database. The Deputy Commissioner reviews the compliance history of each respondent, and utilizes the pesticide enforcement response regulations to determine if enforcement action is warranted. The biologists are required to conduct follow-up inspections, which include a headquarter employer/employee inspection, when worker

safety non-compliances are found. Enforcement actions are taken when violations are found on incidents involving drift, pesticide related illnesses, or when required by the pesticide enforcement response regulations. When enforcement actions are not taken, a decision report is written listing the violations found, classification, the respondent's compliance history along with an explanation.

Kings County has issued approximately 13 agricultural civil penalties in fiscal year 2006/2007.

The CAC enforcement program was found to:

- Initiate the appropriate action when violations are identified
- Sufficiently support compliance, enforcement and public protection actions

The CAC levies fines in the appropriate category, adheres to statutory time frames and follows DPR policies when implementing civil penalties.

### **III. Recommended Corrective Actions**

No corrective actions are currently needed.

### **IV. Non-Core and Desirable Activities**

#### **A) Outreach and Training**

Each year, the Kings County Agricultural Commissioner's office provides pesticide safety training in English and Spanish to workers including school employees, growers, pesticide applicators, and farm labor contractors. The course includes information on pesticide safety, first aid, container disposal, heat stress, how to read and understand pesticide labels, and updates on pesticide laws and regulations.

Staff from the Kings County Agricultural Commissioner's office participate in CAPCA and PAPA meetings to provide outreach on laws and regulations regarding pesticides.